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The Rise of Governance and the Japanese Intermediation in Transitional Vietnam: The Impact of Japanese Knowledge-Based Aid to Vietnam in the *Doi Moi* Years

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Abstract

In the late 1980s, the Socialist Republic of Vietnam (Vietnam, hereafter) underwent a period of reforms known as *doi moi* (renovation), opened its economy to global flows of goods and capitals and adopted an “omnidirectional” strategy aimed at building relations with former “enemy” states like Japan and the US. These multiple transitions presented the country’s communist leadership with new challenges: first and foremost, transforming the country’s governance from socialist to a partially neoliberal one in the attempt to accommodate international partners’ and investors’ demands. The present study will address the following research question: by which means did the Vietnamese leadership succeed in surviving the demise of the USSR and conform to the emerging neoliberal global order? Against the backdrop of the global rise of the good governance model for international development, this article will shed light on Japan’s role during Vietnam’s first phase of reforms in the early 1990s through its government-led knowledge-based aid initiatives up until the draft of the country’s first Comprehensive Growth and Poverty Reduction Strategy. It will argue that Japan offered a certain development know-how and a model of state-mediated growth which suited Vietnam’s Communist party’s needs to keep the single-party rule.

Keywords: Vietnam, *doi moi*, reforms, knowledge-based aid, development, economic growth.

Introduction

Since the late 1980s, the Socialist Republic of Vietnam (SRV) has undergone a thirty-year-long period of structural reforms that have favored its economic development and its integration in the international system.¹ This

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¹ Pietro Masina, *Vietnam's Development Strategies* (London, New York: Routledge, 2006). See also Adam Fforde “Economics, History and the Origins of Vietnam’s Post-War Economic Success,” *Asian Survey* 49 no 3 (May/June 2009): 484-504.

process has been accelerated since the demise of the SRV's main international partner, the USSR, in 1989.

During this period, Vietnam has re-established diplomatic relations with countries like Japan and the US, which had been considered enemies less than a decade earlier.² For its rapid economic development, Vietnam has gone as far as becoming a "poster boy" for the World Bank's (WB) neoliberal economic assistance policies.³ This rapprochement has ushered in new ideas to be implemented as policies in the field of the governance and economic management of the country (as for instance the introduction of the private property, laws on investments, equitization, i.e., privatization, of shares of State-owned enterprises, etc.). If, on the one hand, structural reforms have helped the Vietnamese political leadership to attract investments and capitals in the country, on the other hand they have created ideational conflicts – for instance, as far as the single-party political system of the Communist Party of Vietnam (CPV) is concerned.⁴ Despite this theoretical clash, how did the country's communist leadership succeed in conforming to the new global order while maintaining its power locally? How has this affected the SRV's international posture, in particular toward a former enemy like Japan?

Focusing on the interactions between a hegemonic force (the US-led system of international financial institutions [IFI]), a hegemonized subject (Vietnam after the demise of the Soviet Union) and a sub-hegemonic node (Japan), this study aims to shed light on the strategies adopted by the SRV's leadership to engage with the international community since the aftermath of the fall of the Soviet Union in the early 1990s. In particular, it will discuss how Japan's foreign aid and, in particular, the so-called intellectual cooperation, have helped to shape policy orientations within the CPV while defending the country leadership's autonomy. In other words, the present study argues that Japanese aid has favored an adjustment of the SRV's regulations within the IFI's framework while enabling the CPV to use the right discursive tools to resist the international community's pressures, thus maintaining the "ownership" on domestic reforms.

As noted by Tuong Vu, these diplomatic efforts combined with a pragmatist approach to an evolving situation highlight the very adaptability of the Vietnamese leadership, which not only was able to survive the end of the Soviet Union but to reform itself, eventually achieving impressive results

² Ari Nakano, *Contemporary Vietnam: the path toward integration in the international community* (in Japanese) (Tokyo: Akatsuki inshokan, 2006).

³ David Craig and Doug Porter, *Development Beyond Neoliberalism? Governance, Poverty Reduction and Political Economy* (London-New York: Routledge, 2006).

⁴ S. Melanie Beresford, "Doi Moi in review: The challenges of building market socialism in Vietnam," in *Journal of Contemporary Asia* 38, Issue 2 (2008): 221–243 and Quan Hoang Vuong "Vietnam's Political Economy 1986-2016," CEB Working Paper 14/010 (2014).

through economic reforms.⁵ This adaptability has shaped the Communist leadership's approach to International Financial Institutions (IFI) and bilateral partners in the first phase of the *doi moi* reforms. This issue is discussed in detail by Masina⁶ and Hoa Quang Le.⁷ The first in particular argues that the SRV's achievements in economic growth in the last two decades were not the result of a full implementation of the Washington Consensus' prescriptions, but were rather the result of a gradualist and pragmatic process of reform.⁸

Nevertheless, the concept of hegemony – which in the Gramscian theorization emerges from imposition and active consent⁹ – is vital to understanding the workings that have led to the SRV's economic success and, more broadly, to the expansion and consolidation of global neoliberalism in Southeast Asia throughout the 1990s. This concept, in fact, allows to account for the subordinate subject's (or, as in this case, of the ruling class in a subaltern country) preference versus the agency of the hegemonizing force (multilateral organizations such as the World Bank) providing funds to low-income countries in return for specific economic or social policies in an attempt to advance a certain global agenda. In addition, the case study presented here is particularly relevant insofar as it sheds light on the role of "localizing" actors or "sub-hegemonic nodes" such as Japan in Southeast Asia in the 1990s.¹⁰

It is undeniable that through aid and foreign investment, Japan had a decisive role in this transformative process. Dahm has discussed the strategies adopted by Japan in geopolitical terms, that is, as a way to create a regional leadership by exporting capitals, technologies and know-how.¹¹ Ohno and Ohno have written extensively on the Japanese approach to development since the late 1980s toward continental Southeast Asia, and in particular toward Vietnam.¹² The two authors focus on forms of intellectual cooperation (*chiteki shien* in

⁵ Tuong Vu, "Persistence Amid Decay: The Communist Party of Vietnam at 83," in *Politics in Contemporary Vietnam* ed. Johnathan London (London: Palgrave Macmillan, 2014): 21-41.

⁶ Pietro Masina, "Vietnam between Developmental State and Neoliberalism: The Case of the Industrial Sector," in *Developmental Politics in Transition: The Neoliberal Era and Beyond* eds. Kyung-sup Chang, Linda Weiss and Ben Fine (Basingstoke: Palgrave, 2012).

⁷ Hoa Quang Le, *Perceptions of the Developmental State Mindset in Vietnam: The Influence of International Actors*, Doctor of Philosophy thesis, (School of Humanities and Social Inquiry, University of Wollongong, 2017), <https://ro.uow.edu.au/theses1/179/>.

⁸ Masina, "Vietnam," 188-189.

⁹ David Forgacs, ed., *The Gramsci Reader. Selected Writings 1916-1935* (New York: New York University Press, 2000): 307-308.

¹⁰ This theorization is drawn from Bob Jessop and Ngai-ling Sum, "International Political Economy and Poststructural Politics" in *International Political Economy and Poststructural Politics*, ed. Marieke de Goede (London: Palgrave 2006).

¹¹ Heinrich Dahm, *French and Japanese Economic Relations with Vietnam Since 1975* (Surrey: Curzon, 1999).

¹² See in particular Kenichi Ohno and Izumi Ohno, eds., *Japanese Views on Economic Development: Diverse Paths to the Market* (London New York: Routledge, 1998) and "Global Development Strategy and Japan's ODA Policy" (Tokyo: GRIPS, 2002).

Japanese) that in the early stages of Japan-Vietnam cooperation in the 1990s were combined with infrastructural aid and based upon the recipient's requests. Accordingly, such an approach to poverty reduction, less prescriptive than that of the IFIs and successfully implemented in Vietnam, could be enhanced *mutatis mutandis* elsewhere too.¹³

In the same spirit, Le Hong Hiep discusses the strategic partnership between Japan and Vietnam, in light of the rise of China, but falls short of identifying the 1990s as a critical moment from a historical perspective.¹⁴ Despite the clear illustration of a Japanese/East Asian approach to development as opposed to a "Western" one, however, the literature on Japanese aid to Vietnam does not seem to take into serious consideration discourse as a significant component of aid and as a reflection of power relations in place in a specific timespan. Therefore, this study attempts to fill this gap with an alternative view on the SRV's rapprochement with the international community throughout the early 1990s and 2000s.¹⁵

The Global Rise of Governance

At the beginning of the 1990s, a swift paradigm change in the idea of "Development" was observed globally. The failure of structural adjustment strategies (i.e., fiscal restraint, market reforms and privatizations), combined with the emergence of failed states, particularly in Africa, caused the world's major International Financial Institutions (IFIs) (WB, IMF) and donors to rethink their aid policies.¹⁶ The IFIs' main concern was that a new wave of privatizations in the former Soviet bloc could lead to "oligarchic capture" and "unregulated markets."¹⁷ Therefore, their focus shifted to poverty reduction by enhancing governance and strengthening state institutions in the developing world. This new and more "inclusive" model was the product of global resistances developed throughout the 1980s up until the early 2000s.¹⁸

¹³ Izumi Ohno, "Country-Specific Growth Support in East Asia and Africa: Japan's ODA to Vietnam and Ghana," *GRIPS Development Forum Discussion Paper* no 16 (2007).

¹⁴ Le Hong Hiep, "The Strategic Significance of Vietnam-Japan Ties," *ISEAS Perspectives* no 23, 11 April 2017. (Singapore: ISEAS, 2017).

¹⁵ Nakano, *Contemporary Vietnam*, 153-160. Beresford, "Doi Moi in review."

¹⁶ James Ferguson, *The Anti-Politics Machine* (Minnesota University Press, 1990).

¹⁷ Craig and Porter, *Development*, 64-65.

¹⁸ See Juha Y. Auvinen, "IMF Intervention and Political Protest in the Third World: A Conventional Wisdom Refined," *Third World Quarterly* 17, no 3 (2006): 377-400; Jessica Woodroffe and Mark Ellis-Jones, "States of Unrest: Resistance to IMF Policies in Poor Countries," *World Development Movement Report* (September 2000); Sam Hickey, "Beyond 'Poverty Reduction through Good Governance': The New Political Economy of Development in Africa," *New Political Economy* 17, no 5 (2012): 683-690. Lesley J.

The IFIs' approach was rooted in the work of New Institutional Economy (NIE) scholars such as Douglass North and Ronald Coase. Their main assumption was that, with the evolution of human societies and the enlargement of the scope of their economic activities, rules have become necessary in order to grant each participant in transactions equal possibilities to maximize his or her own wealth.¹⁹ Such rules involve a diverse range of constraint, both formal (laws, constitutions, property rights) and informal (taboos, customs, codes of conduct, etc.). In other words, institutions function as tools that reduce information and transaction costs, thus reducing uncertainty in human exchanges and preventing "market failures."²⁰ NIE's approach to the developing areas of the world, the so called "Third World", reflects this assumption. Socio-economic backwardness in large parts of the globe, namely Latin America, Africa and, partly, Asia, is imputable to institutional frameworks designed to make societies more unproductive.²¹ Such arrangements might survive for decades, as they have support by those social strata that in a given society have more bargaining power, i.e., dominant interest groups.²² In short, strong and capable state administrations were key to socio-economic development. However, lack of accountability, nepotism and corruption were among the obstacles barring poor countries from attaining durable economic growth.²³

In 1989 and throughout the early 1990s, the World Bank (WB) set the agenda for international aid. In consecutive reports, the Washington-based multilateral development bank stressed the importance of "good governance" – i.e., an accountable, transparent, predictable and democratic management of state affairs – as a key factor in its global war on poverty, and consequently launched hundreds of projects centered on governance reform. By the mid-1990s, the IMF and other multilateral development banks such as the Asian Development Bank (ADB), as well as national governments through their aid agencies, adopted governance as a key concept in the conditionalities included in aid packages to developing countries.

These efforts by the WB and other relevant IFIs in curbing corruption and securing markets at a global level were accelerated in the aftermath of the

Wood, "Anti-World Bank and IMF Riots" in *The Wiley-Blackwell Encyclopedia of Social and Political Movements* (2013).

¹⁹ Douglass C. North, "Institutions," *The Journal of Economic Perspectives* 5 no 1 (1991): 97–112.

²⁰ See Pranab Bardhan, "The new institutional economics and development theory: A brief critical assessment," *World Development* 17 issue 9 (1989): 1389-1395 and John Harriss, Janet Hunter, and Colin M. Lewis, eds., *The New Institutional Economics and Third World Development*. (London: Routledge, 1995): 3.

²¹ Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990): 9.

²² Harris, Hunter and Lewis, *The New*, 9.

²³ Craig and Porter, *Development*: 69-70.

1997 Asian currency crisis.²⁴ Between 1999 and 2000, as the head of one of the major international financial institutions (IFIs), WB President James Wolfensohn recognized the need to “rethink” development in terms of a multifaceted process. First, he argued for the need of a more inclusive approach to local actors on the side of the donors and the IFIs, forging capacity building and a sense of ownership of the development projects, thus attracting wide consensual support on the recipient’s end. Second, Wolfensohn put forward a long-term vision of development realized through the use of comprehensive development frameworks (CDF) and, at the same time, a “sharper poverty focus”.

In doing so, the WB established a new global paradigm of action in international aid. According to it, poverty reduction strategies had to be formulated by governments on the base of the WB’s Poverty Reduction Strategy Papers (PRSPs), which completed the CDF with “specific” and “operational” measures.²⁵ Indeed, the PRSP needed to emphasize values like “ownership” and “participation” of the recipient subjects; to specify the poverty reduction initiative “macroeconomic framework”, and “implementation timeframe”, and, at the same time, suitable indicators through which progress can be measured.²⁶ This paradigm shift was explained by Wolfensohn in terms of a consideration of the new challenges connected to globalization. While admitting to the irreversibility of the process of globalization, the WB President recognized the importance of further trade-openness and liberalization in order to spur growth while reducing poverty. Toward this end, he noted the importance of “safety nets” protecting the “poorest” from possible side-effects of globalization, namely inequality. This effort would be in vain, though, without taking specific steps to foster new and improved global “rules” in international trade – specifically, ensuring equal access to the World Trade

²⁴ In 1997-8, the burst of the Asian financial and currency crises (AFCs), originating in Thailand, urged the Government of Japan to promptly intervene with a 30 billion USD aid package in order to stabilize the region’s finances. The ratio for this intervention – named after the then Finance Minister Miyazawa Kiichi – is to be found in the “regional embeddedness” of Japanese manufacturing sector and in the financial exposure of Japanese banks abroad. S. on this Bob Jessop and Ngai-Ling Sum, *Beyond the Regulation approach: putting capitalist economies in their place* (Cheltenham-Northampton: Edward Elgar, 2006). and Takashi Shiraishi, “The Asian crisis reconsidered,” in *Dislocating Nation-States: Globalization in Asia and Africa*, ed. Patricio N. Abinales, Noboru Ishikawa and Akio Tanabe (Kyoto: Kyoto University Press, 2005): 17-40.

²⁵ Cooperation between the SRV and the WB proceeded smoothly until the early 2000’s. A turning point in the relation, can be found in 1999, when Vietnam was chosen by the Bank as the “pilot country” in East Asia of its new Comprehensive Development Framework (CDF), launched by the then WB President James Wolfensohn (Wolfensohn 1999; Ohno 2007).

²⁶ James D. Wolfensohn, “Remarks at the Tenth Ministerial Meeting of UNCTAD: Rethinking Development - Challenges and Opportunities,” February 16, 2000: 4-5.

Organization (WTO). Only in this way, according to Wolfensohn, was it possible to frame an “increasingly inclusive” approach to development.²⁷

Critics of this view argue that the World Bank and the IMF’s insistence on governance *depoliticized* development, making it a mere technical matter. The expected result was a “predictable and transparent” set of rules that might foster “security” in international donors and investors. Recipients were put under the threat of aid withdrawal should they not adjust to these new guidelines. In response, they adopted often “symbolic” reforms.²⁸ In sum,

“Poor country governments were being urged to align to global norms in the interest of global growth and security and then of course to show their commitment to this responsibility by micro-managing, integrating and disciplining multiple local actors in accordance with these global regulatory regimes.”²⁹

Drawing upon Jessop and Sum’s work on the Cultural Political Economy, successful hegemonies are those able to absorb alternative meanings and marginalize resistances and to adapt to more global or local circumstances.³⁰ For this reason, when analyzing the rise and diffusion of ideas and discourses at a global level, it is necessary to consider the time in which they spread and the existence of the “sub-hegemonic nodes” that might function as “localizers” and “anchors” of said principles, as well as bottom-up transmitters of new ideas to the hegemonic cores.³¹ In other words, sub-hegemonic nodes are key to both the emergence of new discourse within a local and regional framework and to the reshaping of a global discourse with regional features (in this case East Asian).

The case-study presented in the following paragraphs, i.e., the role of Japan in Vietnam’s transition from a USSR-led system of diplomacy and international cooperation to the US-led neoliberal global order, is elucidatory of the processes described above. As a “dominated” entity in search of new alliances and new sources of economic subsistence, the Vietnamese political leadership has, in fact, shown “active consent” in adapting, or at least displaying its willingness to adapt, to the tenets of the Washington Consensus. The Japanese government has invested in Vietnam’s opening mainly for its own economic interests but, at the same time, has acted as a sub-hegemonic node, in the sense that it has provided “intellectual assistance,” localizing global ideas

²⁷ Ibid, 9-11.

²⁸ Craig and Porter, *Development*, 72-74.

²⁹ Ibid., 75.

³⁰ Jessop and Sum, “International Political Economy,” 169-170. See also Jessop and Sum, *Beyond*.

³¹ See Jessop and Sum, *Beyond* and Ngai-Ling Sum “Towards a Cultural Political Economy: Discourses, Material Power and (Counter-) Hegemony.” *CPERC Working Paper* 2012-01 (2012).

and discourses. Furthermore, it has helped to shape a precedent of a global development initiative (Vietnam's 2002 CGPRS) from an "Asian" perspective.

Vietnam's "New Thinking"

Since 1986, Vietnam has undergone a process of massive political and economic process of reform called *doi moi* (literally "renovation"). This state-mediated process of opening the country to the global market economy spurred unprecedented economic growth, which helped to reduce poverty by a third, and favored the transition from an import-substitution economy to an export-oriented one.³² On the other hand, the *doi moi* years also signaled a radical political transition. Indeed, the SRV moved from its status as a Soviet Union satellite country to a member of the US-led neoliberal international community. This transition was spurred by a shift in the SRV relations with the Soviet Union and Hanoi's progressive distancing from Moscow, until the collapse of the USSR. At the end of the 1980s the USSR tried to revamp its Asian strategy: the then-Secretary General of the Communist Party of the Soviet Union (CPSU), Mikhail Gorbachev, promoted a new engagement in the Asia-Pacific region aimed at stabilizing relations with China. The Soviet leader pledged the USSR's withdrawal from Afghanistan and Mongolia, paving the way for the end of the USSR's military support to the Vietnamese occupation of Cambodia.³³ Furthermore, the Afghan military campaign put the USSR's economy in great distress. Against this background, Moscow was eager to "rationalize" its aid policy to Vietnam. In fact, the criticism inside the CPSU leadership over the lack of effectiveness of USSR's cooperation with, and economic support to the SRV had become harsher. In mid-1987, Vietnam and the USSR agreed on a new form of economic cooperation based on joint ventures and trade rather than on subsidies.³⁴

The SRV had to gradually adapt its national economy and its foreign policy to the new international situation. First, the SRV economy was affected by the end of the subsidies. Parts of the SRV leadership were keen to speed up the economic *doi moi*. Second, the rupture of the USSR-SRV axis also meant that the SRV had to rely increasingly on its own means to secure national security. However, a still underdeveloped Vietnam could not do that alone. Between 1988 and 1989, the Communist leadership laid the foundations of a new foreign policy based on a multilateral approach and on the establishment of

³² See Fforde, "Economics" and David Dollar, "Reform, Growth and Poverty in Vietnam," *World Bank Policy Research Working Paper* no 2837 (2002).

³³ Matthew Evangelista, "The New Soviet Approach to Security," *World Policy Journal*, 3 no 4 (Fall 1986): 573-574; Nakano, *Contemporary Vietnam*: 154.

³⁴ Nakano, *Contemporary Vietnam*, 153-155.

friendly relations with “all countries.”³⁵ Hanoi adopted a new thinking in diplomacy (*doi moi tu duy doi ngoai*), one that was not ideology-driven, but which was “alliance-based” and “omnidirectional.”³⁶

This new attitude resulted in a *rapprochement* with the neighboring countries in mainland SEA (Laos and Cambodia), ASEAN countries, and, most importantly, with China and, later in the 1990’s, with the US. After the demise of the USSR, China became a model for certain currents in the Vietnamese communist leadership. Vietnamese officials saw in the People’s Republic of China (PRC) leadership’s ability to strike a balance between the one-party rule and its economic development a feasible model of development. More specifically, it looked to China’s economic policies in the areas of industrialization, agricultural modernization, and foreign capitals attraction. Key here for the Vietnamese leadership was the withdrawal of the Vietnamese army from Cambodia, completed in 1990.³⁷

After the demise of the Soviet Union in 1991, the SRV started implementing the diplomatic strategy drafted by the Communist leadership at the end of the 1980s, and consequently the economic reforms that transformed the SRV centrally planned economy to a more diversified market-oriented one. These reforms aimed at a dramatic reduction of the inflation rate (which in 1988 amounted to 160 percent), and stabilization through fiscal adjustment and monetary restraint – and, at the same time, the liberalization of foreign trade and investment. Foreign direct investments (FDI) in the country accounted for 5 percent of the country’s total GDP in the second half of the 1990s.³⁸ Such reforms spurred rapid growth in the early 1990s, resulting, on one hand, in poverty reduction and better access to healthcare and education for millions of people, and, on the other, in development imbalances between urban and rural areas and increasing corruption in the public sector at the local and national levels.³⁹

Law as a Central Concept of *doi moi*

In the intentions of the CPV leadership, the market-oriented turn impressed on the country in the late 1980s had a twofold goal: attracting international investors and favoring the country’s economic growth without renouncing the party’s control over the country’s affairs.

³⁵ Ibid., 160.

³⁶ Thuy Thi Do, “Locating Vietnam-Japan Strategic Partnership in the Changing East Asian Political Landscape,” *JIIA Research Paper* (2014): 4.

³⁷ Nakano, *Contemporary Vietnam*, 203.

³⁸ Dollar, “Growth,” 10-11. See also Thuy Thi Do, “Locating,” 5.

³⁹ Fforde, “Economics,” 487.

This transition, in fact, presented the CPV leadership with new challenges: namely, the challenge to renounce a part of its power over the national economy without completely renouncing its overall control over state affairs. Defining “law” and its relations with the one party-state apparatus in a period of transition from a socialist to a market-oriented economy appears to be among the most urgent needs for the CPV leadership.

The idea of a “socialist law-governed state” emerged in 1991 at the second plenum of the CPV Central Committee, 8th tenure. Within this concept lay the idea of a socialist state “of the people, by the people and for the people, with an alliance of the working class, the peasantry, and the intelligentsia as the foundation and led by the Communist Party.”⁴⁰ In an article, the General Secretary of the Central Theory Council, Nguyen Viet Thong, described the need to achieve a law-governed state as a “traditional” feature of Vietnam and already part of Ho Chi Minh’s thought. “*Tram dieu phai co than linh phap quyen*” (“All must be reigned by law”), wrote the leader of the Viet Minh, as reported by the leader of the CPV theoretical think tank.⁴¹ However, as Gillespie maintains, the 1991 revised concept of socialist law was very different from earlier views of “legality” (*phap che*). Before 1986, this term indicated the compliance with the socialist canon of “socialist legality,” “democratic centralism” and “collective mastery.”⁴² However, these principles did not imply specific legal procedures, but can be described as comprehensive guiding ideas initially imported to North Vietnam from the Soviet Union and China, and centered around the CPV’s political and legal leadership. In practice, these guidelines were often merged with the Vietnamese Confucian social and moral tradition.

With the launch of the *doi moi* at the 6th CPV Congress in 1986, the idea that “the management of the country should be performed through laws rather than moral concepts” gained significance.⁴³ This new legal paradigm was articulated in the expression “socialist law-based state” (*nha nuoc phap quyen xa hoi chu nghia*), which fundamentally implied a rational-scientific “procedural” mechanism beyond the moral and political rules of the socialist canon. This paradigm tried to merge the “Western” rule of law with the formerly adopted Soviet model of the “law-based state” (*pravovoe gosudarstvo*) in order to respond to the emerging need to balance “the rule of law” with “the

⁴⁰ Nguyen Viet Thong, “Party affirms building of a socialist law-governed state,” *Vietnam Law & Legal Forum* (May 30, 2011), <http://vietnamlawmagazine.vn/party-affirms-building-of-a-socialist-law-governed-state-3263.html>.

⁴¹ Ibid.

⁴² John Gillespie, “Changing Concepts of Socialist Law in Vietnam,” in *Asian Socialism & Legal Change: The Dynamics of Vietnamese and Chinese Reform* eds. Pip Nicholson and John Gillespie (Canberra: ANU E Press, 2015), 47-48.

⁴³ Ibid., 54.

rule of the Party.”⁴⁴ In fact, the 1991 concept promoted “stable, authoritative and compulsory law; equality before the law; and the use of law to constrain and supervise enforcement of the administration,”⁴⁵ which in addition formulated a separation of Party and state functions. The contemporary Vietnamese legal discourse has been affected by the market-oriented economic reforms undertaken by the Vietnamese government from the early 1990s, and by the gradual international integration. The inflow of neoliberal legal concepts, such as private property, has produced theoretical conundrums. As Gillespie puts it:

“shifts in Marxist economic thinking have made legal borrowing from capitalist countries theoretically respectable, but at the same time the role of ‘state economic management’ in the mixed-market economy is unresolved. Legal discourse reflects this uncertainty. It oscillates between the neoliberal legal language that permeates foreign donor discourse and the ambiguous messages in Party and government writings about ‘Party leadership’ over the economy.”⁴⁶

Creating a legal system that could reconcile a market-oriented economy and a single-party political and economic dominance appears to be key to pursuing the CVP objectives. These can be summarized as follows: the achievement of a market-based economy; the promotion of a different market model for specific national situations; the maintenance of the country’s territorial integrity, independence, and regional integration.⁴⁷

Utility of Japanese Aid

With the normalization of its diplomatic ties and its progressive inclusion into global markets, the SRV accelerated its economic and legal reform. In order to do this, the CPV leadership asked for assistance from abroad.

Against this backdrop, Japan emerged as one of the major international partners to the SRV.⁴⁸ In 1992, the GOJ resumed its economic cooperation with the SRV. That year, Tokyo reopened a 45.5 billion JPY credit line that was suspended after the SRV invaded Cambodia in 1979. The move was possible after a round of diplomatic negotiations between the US, Japan and the SRV,

⁴⁴ Thiem H. Bui, “Deconstructing the ‘Socialist’ Rule of Law in Vietnam: The Changing Discourse on Human Rights in Vietnam’s Constitutional Reform Process,” *Contemporary Southeast Asia* 36 no 1 (April 2014): 83.

⁴⁵ Gillespie, “Changing,” 54-55.

⁴⁶ Ibid., 59.

⁴⁷ See the Socialist Republic of Vietnam, *Strategy for socio-economic development 2001-2010* (2006), <http://www.chinhphu.vn/portal/page/portal/English/strategies/strategiesdetails?categoryId=29&articleId=3065>, last accessed July 3, 2019.

⁴⁸ See Thuy Thi Do, “Locating.”

which spanned from the unresolved issue of those missing in action (MIA) between the US and the SRV to the issue of aid resumption between the GOJ and the SRV. After the Japanese Foreign Minister Watanabe Michio persuaded SRV diplomacy to deal with the US over the MIA issue, the US, initially contrary to the GOJ's initiative, approved the resumption of Japanese aid to the SRV.⁴⁹ This strategy resulted in an increase of Japanese foreign direct investment (FDI) in the Southeast Asian country. Specifically, between 1994 and 1996, Japanese financiers invested considerably in the country's natural resources – in particular in the sectors of hotel and tourism, industry and oil and gas (Table 1).⁵⁰

The resumption of Japanese aid provoked opposing reactions in the SRV leadership. On the one hand, a part of it welcomed this development with skepticism. It was in fact believed that Japan was using its economic power to establish a sort of neocolonial rule in Southeast Asia. On the other hand, more liberal views expected Japan to act as a “containment force” against the US in the Asia-Pacific region.⁵¹

The 1997 financial crisis hindered further investments until the early 2000s.⁵² The GOJ used its position as a member of the most prominent regional and international organizations and financial institutions (IFIs), as well as its position as a major US ally in the Asia-Pacific region, to favor a larger international engagement with Vietnam's economic development.⁵³ In 1993, Japan and France paid off the SRV's debt at the IMF and favored a restart of loans to the country.⁵⁴ At the same time, the World Bank (WB) resumed financing projects in Vietnam after a 15-year hiatus. The following year, the WB pledged a 246 million USD loan for two projects: a structural adjustment credit and an agricultural rehabilitation project. These developments paved the way toward a revived engagement of the international community with the SRV. This move was also favored by the decision of the SRV political leadership to pursue a more open foreign and trade policy in the context of a

⁴⁹ Keiko Hirata, “Japan as a reactive state? Analyzing Japan's relations with the Socialist Republic of Vietnam,” *Japanese Studies* 18 (1998): 149.

⁵⁰ See for instance Tim Goydke, “Is Vietnam the Youngest Goose in Japan's Flight Formation?,” *Intereconomics* (July/August 1999): 192–200 and Mitsubishi UFJ Search and Consulting “Survey report: Japanese investments to Vietnam on the rise” (in Japanese), February 2, 2007 (Tokyo: Mitsubishi UFJ Financial Group, 2007).

⁵¹ Nakano, *Contemporary Vietnam*, 214–5.

⁵² In the framework of the 1998 Miyazawa initiative, the GOJ approved a 88 billion yen aid package to Vietnam to support its *doi moi* reforms. A new wave of Japanese investments to Vietnam would start in 2001 and steadily grow up until 2013. See JETRO, “Japan's Foreign Direct Investments for single country and region” (in Japanese) (2019), <https://www.jetro.go.jp/world/japan/stats/fdi.html>.

⁵³ Thuy Thi Do, “Locating,” 5.

⁵⁴ Hirata, “Japan as a reactive state?,” 150.

continuation of the country's "renovation" following the end of the Cold War. This strategy led to the SRV's joining of ASEAN in 1995, and to the growing involvement of Hanoi in the region's politics.

In the 1990s, Japan became the "dominant aid provider" in the transport and power sectors in Vietnam, as well as the main supporter of "large-scale, policy-oriented" programs in areas such as policy research (Ishikawa project, see above), judicial support and economic reform (through the 1998-9 New Miyazawa Initiative).⁵⁵ The fact that Japan was perceived as a "model" by sections of the CPV's leadership is not a coincidence. In the 1960s, Japan emerged in the global economy thanks to the success of its state-led capitalism,⁵⁶ or "proactive regulatory model."⁵⁷ Moreover, by the early 1990s, a Japanese model of economic growth – based on the successful use of available human and physical capital, an export-led trade policy combined with fiscal discipline, and a high rate of public savings – had already become a regional model.⁵⁸

The birth of this model is to be found in the aftermath of WWII. At a time of postwar recovery, Japanese Liberal democratic party politicians, policymakers and industrialists agreed on the fact that the state should be the ultimate responsible party for the promotion of economic reconstruction, structural development and high growth. Consequently, state intervention was essential in order to nurture key industries, favor oligopolies to secure the supply of raw materials from abroad and develop foreign markets for manufactured products.⁵⁹

In this sense, for the CPV leadership to reaffirm the role of the state in the country's economic planning meant its claiming a central role for the party in legal and economic reforms. In principle, this emphasis on the role of

⁵⁵ Kenichi Ohno, Conference Paper: "The East Asian Experience of Economic Development and Cooperation," (Tokyo: GRIPS, 2002).

⁵⁶ T.J. Pempel, *Policy and Politics of Japan: Creative Conservatism* (Philadelphia: Temple University Press, 1982): 46.

⁵⁷ The origins of this model might be found in the GOJ's 1960 Plan to Double the National Income in Ten Years, that clearly stressed the importance of the role of the government in Japan's development path. According to the plan: "The Government is at all times responsible for positively cultivating factors for economic growth and eliminating adverse elements while maintaining a correct appraisal of the latent growth potential of the Japanese economy" (in Pempel, *Policy*, 75-89). On this, s. also Gillespie, "Changing," 58.

⁵⁸ The product of a two-year study on the economic successes of Japan and other high-performing Asian economies (HPAEs), such as Hong Kong, South Korea, Taiwan, Singapore, and to a certain extent mainland China, between the 1960s and 1990s, the WB's "The East Asian Miracle" (1993) officially recognized Japan's role as a trailblazer of East Asian economic development (S. The World Bank, *The East Asian Miracle* (Oxford-New York: Oxford University Press, 1993) and Robert Wade, "Japan, the World Bank, and the Art of Paradigm Maintenance: The East Asian Miracle," *New Left Review* 1 (217 May/June 1996): 3–36).

⁵⁹ Pempel, *Policy*, 153-155.

government in providing a new legal framework aimed at securing the country's business environment was in line with the "good governance" guidelines adopted by the world's major IFIs. However, it might be argued that the ultimate aim of the CPV leadership was to reduce the IFIs' interference in domestic affairs, in favor of less orthodox bilateral donors.

JICA's Approach and the Morishima Project of Legal Development

As discussed above, in the 1990s a paradigm change in the global discourse on development promoted by the IFIs could be noted. Apart from infrastructural aid, which constituted the backbone of its overseas cooperation, the Japanese International Cooperation Agency (JICA) put much more effort into forms of intellectual aid in conformity with the IFI's guidelines.

JICA launched its legal cooperation project (*hōseibi shien*) in 1996, and its action was based on four pillars: (1) equality (i.e. helping the recipient country's government improve its transparency and accountability and its judicial system's capacity, guaranteeing fair access to the judiciary to all citizens, or legal empowerment); (2) peace and democracy (i.e. helping draft constitutions and fundamental rules, such as constitutions or civil codes; fostering trust in the legal system; reducing domestic ethnic and intra-societal conflicts; promoting participation of all social and ethnic components in the decision-process as necessary for nation-building (*kokumin zukuri*); stressing the concept of the "common good"; preserving diversity of ethnicities, languages, and religions in multi-ethnic countries); (3) fighting corruption (promoting equality [s. 1]; drafting special anti-corruption (missing word); setting up ad-hoc commissions; drawing the people nearer to the law); (4) promoting the transition toward a market-economy and the involvement of the private sector (reducing business risk through legal development; guaranteeing fair access to business opportunity; and regulating business competition).⁶⁰

The project was divided into three phases (1996-9, 1999-2003, 2003-7). The first phase was dedicated to the research and presentation of suitable foreign legal models for the SRV leadership. The second phase saw an expansion of the project from its theoretical phase to a more practical one. The latter involved more structured policy proposals regarding the reform of the civil code and the judicial system. Specific projects for the development of know-how and human resources in the relevant fields were launched. In addition, JICA's long-term experts took part as advisors in the United Nations

⁶⁰ Japan International Cooperation Agency (JICA), *Specific area guidelines: Legal support* (in Japanese) (Tokyo: JICA, 2011): 27-29.

Development Program (UNDP)-sponsored SRV's Ministry of Justice's survey of the country's legal needs. In the third phase, human resource development (HRD) was given priority. Specifically, targets and the time schedule of the legal reforms were further specified, seminars on Japanese law were organized in Vietnam and Japan, with the active involvement of CPV officials, and partnerships between Japanese and Vietnamese universities were signed.⁶¹

In line with the emerging discourse on development at the international level, the declared aim of this form of cooperation was that of fostering good governance and contributing to institution- and nation-building in Vietnam in an attempt to improve the investment environment.

The project was led by Nagoya University Emeritus Professor Morishima Akio. Morishima's work with Vietnam had begun a few years before in 1992, when he was asked by the Vietnamese Ministry of Justice to provide legal advice. He was then involved in legal training for Vietnamese officials, two years after working closely with Hoang The Lien, former director of the Institute of Law Research.⁶² The drafting process involved frequent discussions between Vietnamese officials and Japanese experts and resulted in the 2005 Civil Code containing provisions on assets and property rights, rights on land use and contracts, intellectual property rights and technological transfers.⁶³

The code preserves its peculiarities. First, it covers both civil and commercial relations, regulating the entire private sphere. Second, it comprises concepts belonging to both modern capitalist and socialist legal traditions. On top of everything, it also proclaims its "Asianess", referring to aspects such as traditions, good morals and social harmony.⁶⁴ This approach was in line with

⁶¹ Ibid., 74-76.

⁶² See Akio Morishima "The reform of Vietnam's Civil Code and Japan's legal development assistance" (in Japanese), *ICD News* 27 issue 6 (2006): 18-21 and Veronica Taylor, "Japan's Legal Technical Assistance: A Different Modernization Narrative?" in *Legitimacy, Legal Development and Change: Law and Modernization Reconsidered* ed. David K. Linnan (Farnham: Ashgate 2002): 235-249.

⁶³ Yoshio Matsubara, "38th training course on Vietnam in Japan – The Reform of Vietnam's Civil Code" (in Japanese). *ICD News* 51 issue 6 (2012). Morishima also notes that his first proposal of reform of the Civil Code, submitted to the Vietnamese government in 1995 containing provisions on the safety of transactions and on the violation of the bona fide principle was rejected because of opposition within the party. Those provisions were simply removed from the reform proposals without insistence by the Japanese end. See Morishima "The reform," 18-21.

⁶⁴ Cf. Yuka Kaneko, "Accompanying Legal Transformation: Japanese Involvement in Legal and Judicial Reforms in Asia," in *Legal Culture and Legal Transplant: Reports to the XVIIIth International Congress of Comparative Law* (Washington D.C., 2014): 33. One example is Art. 4, "Principles of respecting good morals and traditions", that stresses the importance of a peaceful coexistence of all ethnicities on Vietnamese soil through the respect of "good customs, traditions, solidarity, mutualism and cooperation." In addition, the article highlights the significance of "assisting elderly persons, young children and

the CPV's intent to build an "integrated application of law" that could replace the overly "flexible" application of the law of the pre-*doi moi* period.⁶⁵

The project was "an attempt to support the building of an institutional basis for normative development through the judicial application of the code, beyond a short-term goal of legal transplant."⁶⁶ The Vietnamese political leadership apparently appreciated JICA's approach, which was apparently in opposition to that promoted by the WB above all. As Morishima argues,

"The Americans, be it the WB or the ADB, come pushing their own ideas based on the assumption that it is correct. But it is actually difficult to understand what is correct and what is not. It is up to the people who live in that society to choose. Our system does not work with impositions."⁶⁷

This approach, compared to that of a waiter handing the menu to a client, left room for discussions on the recipient end and for gradual reforms based on "trials and errors."⁶⁸

Apart from the 2005 Civil Code, Japanese legal cooperation with Vietnam has contributed to the development of a regulatory apparatus on competition and on public service; to the reform of the laws on dispute resolution; and to capacity building in the legal professions (lawyers, judges, and prosecutors).

The Ishikawa Project

Together with the Morishima Project, the 1995 Ishikawa Project might be defined by Japanese scholars as the "flagship" project in the area of "intellectual cooperation."⁶⁹ This study aimed to support the SRV's government

disabled persons in the exercise of civil rights and obligations." See Vietnam Civil Code (2005), http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=45459.

⁶⁵ Kaneko, "Accompanying," 36.

⁶⁶ Ibid., 38.

⁶⁷ Morishima, "The reform," 20.

⁶⁸ Ibid.

⁶⁹ See Shigeru Ishikawa, "Growth Promotion versus Poverty Reduction: World Bank Rethinking of Aid Policy and Implications for Developing Countries," GRIPS Discussion Papers (Tokyo: GRIPS, 2002); National Graduate Institute for Policy Studies (GRIPS), "Vietnam's Industrialization Strategy in the Age of Globalization," The Ishikawa Project. (Tokyo: GRIPS Development Forum, 2003). Available online at: <http://www.grips.ac.jp/forum/module/vietnam/materials/ishikawa.htm>; Shigeru Ishikawa, "A New Framework for the study on International Development Policy" (Tokyo: GRIPS, 2005); Kenichi Ohno, "The East Asian Experience of Economic Development and Cooperation," Conference Paper (Tokyo: GRIPS, 2002); Izumi Ohno "Country-Specific Growth Support in East Asia

in drafting suitable economic and social policies to build a market-oriented economy in the country against the background of its progressive integration in the world economy. The project saw the involvement of the Japanese International Cooperation Agency (JICA), the SRV Ministry of Planning and Investment (MPI) and Hitotsubashi University, a public university in Tokyo. The six-year-study was agreed upon during an official visit to Tokyo by the CPV former General Secretary Do Muoi that year.

The major aim of the project was to draft the Sixth and Seventh Five-Year Socio-Economic Development Plans.⁷⁰ Funded by the GOJ through its ODA, the project was ended in 2001 and has produced scientific publications as well as policy recommendations to the CPV's leadership in strategic areas such as agriculture, trade and industry, currency, and the reform of state-owned companies (SOE).⁷¹

The project leader was Ishikawa Shigeru, an economist with the Institute of Economic Research, Hitotsubashi University, one of the elite academic institutions for training and research in social sciences and economics. Before leading the research project, Ishikawa had worked with the World Bank (WB) as deputy chair on a commission in charge of drafting policies for a WB loan for the development of universities in China. He had then presided over a JICA special research committee on economic assistance to Egypt. In 1994, he led another JICA special research committee on economic assistance to Vietnam. Upon his appointment, he succeeded in building a trust-based relationship with Do Muoi.⁷²

Ishikawa promoted a state-mediated process of development that favored the gradual transition from a centrally planned economy to a market-oriented one. In fact, one of the central themes in Ishikawa's work is the role of the government in the creation of a market economy in low-income countries and transitional economies. According to the Japanese economist,

“In the poorest or transition countries, domestic markets are extremely primitive. In terms of productivity, organization and human resources, such countries have not reached a stage where mere deregulation can unleash the latent market power to sound development.”⁷³

Therefore, governments need to take measures in order to create “rules and frameworks such as laws, deregulation, privatization and free trade.”⁷⁴ But,

and Africa: Japan's ODA to Vietnam and Ghana,” GRIPS Development Forum Discussion Paper No 16 (Tokyo: GRIPS, 2007).

⁷⁰ Ishikawa, “Growth Promotion,” 1.

⁷¹ Ishikawa, “A New Framework,” 27-29.

⁷² See Ohno and Ohno, *Japanese Views*, 35.

⁷³ Ohno, “The East Asia Experience,” 6.

⁷⁴ Ibid.

more importantly, the governments must not ignore the development needs of the single sectors of the national economy. In this light, it has to take measures in order to implement trade and investment policies, and at the same time promote technological and industrial development. In fact, according to Ishikawa, it is important that governments in developing countries be “flexible” in mixing state and market in their policies, according to the level of development of the single country. In a lecture in 2002, for example, he defended the Chinese development model, based on a gradual reform of the SOE, rather than an abrupt wave of privatization and liberalization, as it happened in some countries of the former Soviet bloc.⁷⁵

On the other hand, Ishikawa recognized (and criticized) the role of the WB in shaping the agenda of international development. In the early 2000s, he appeared to appreciate the “shift” in the international aid “ideology,” from “poverty reduction” to a more comprehensive “poverty reduction with growth promotion” strategy, including investments infrastructures and industries. In the 1990s, thanks to the influence of the work of eminent economists such as Amartya Sen and Joseph Stiglitz, the Bank had embraced a different approach, that of the Poverty Reduction Strategy Paper.

According to Ishikawa, this new approach was positive, as it stressed the importance of “non-income” aspects like the level of health, education, and access to social safety nets. Moreover, it stressed aspects like participation, “consensus building” among all the stakeholders involved in economic activities in the recipient countries, and aimed at fostering a sense of “ownership” of the development initiatives by the citizens. However, citing the case of the SRV in the mid-1990s, Ishikawa is clear in stating that such a strategy is difficult to pursue in the absence of sound fiscal resources.⁷⁶

In this sense, Ishikawa values the Japanese experience as a developing country in the early post-WWII period and as an aid donor since the 1950s. Often citing the example of the joint JICA-Hitotsubashi-MPI project, which he had directed, Ishikawa promoted the Japanese approach to aid giving (request-based, non-imposing, negotiating and bending policy solutions to the recipient’s needs) over the model adopted by other Western major donors (political conditionalities). The Japanese approach’s advantage was that it led to the creation of “mutual trust” and “friendly ties” between the donor and the recipient. As Ishikawa puts it,

“What is clear from the lessons learned from the East Asia model is that mutual trust was established when Japan provided aid without attaching conditionalities and by

⁷⁵ Ishikawa, “Growth Promotion”: 20.

⁷⁶ Ibid., 32-33.

continuing serious policy dialogue based on equal partnership. Japan must retain this approach in supporting the current low-income countries of East Asia.”⁷⁷

According to Ohno, the Ishikawa Project was the first major policy dialogue the GOJ launched together with its ODA recipient countries. The absence of policy conditionality and the approach based on mutual self-respect contributed to its appreciation at the recipient’s end.

Follow-up projects were launched in 2003, 2008 and 2011, under the leadership of different public actors such as the Japanese embassy in Vietnam, JICA, the Japanese External Trade Organization (JETRO), the Japanese Bank for International Cooperation (JBIC) and the National Graduate Institute for Policy Studies (GRIPS).⁷⁸

Towards the CPRGS: the “Asian” View of Development Implemented

Faced with the challenge of the country’s political realignment in the 1990s, the CPV’s leadership decided to adopt the WB’s approach and to draft its own PRSP.⁷⁹ Authors have often stressed the specificity of the SRV’s “Comprehensive Poverty Reduction and Growth Strategy” (CPRGS) compared to other PRSPs. According to Ohno,

“There are two aspects that have made Vietnam’s PRSP very unique compared to early PRSPs: (i) its strong growth orientation, including comprehensive reference to the role of large-scale infrastructure in pro-poor growth; and (ii) its status as supplementary to existing strategic documents, such as the Five-Year Plan and Ten-Year Strategy.”⁸⁰

The specificity of the SRV’s founding economic policy might be observed from the very name of the program (CPRGS instead of PRSP). In addition, it might be seen as the result of strong political stances taken by the Vietnamese leadership, and “soft” pressures by the donors. As one of the major multilateral donor to the SRV, the WB could exert a relatively strong influence on the policy- and law-making process in the country. However, instead of adopting a rigid and confrontational approach toward the CPV leadership, the

⁷⁷ Ishikawa, “A New Framework,” 28.

⁷⁸ See on this, Izumi Ohno, “Japan’s ODA Policy and Reforms since the 1990s and Role in the New Era of Development Cooperation,” *KOICA Journal of International Development Cooperation* 4 (2013): 64-95.

⁷⁹ This document would become the blueprint for the subsequent Five-Year Socio-Economic Development Plans, most notably the 2006-10 Five-Year Socio-Economic Development Plan.

⁸⁰ Ohno, “Country-specific,” 10.

Bank adopted a negotiating “non-doctrinary” and practical approach coordinating its initiatives with the SRV’s government and other agencies (experts, consultants, bilateral donors) functioning as intermediary. This approach effectively recognized the “specificities” of Vietnam. As Cling et al. point out, the WB could not “afford to lose a client which has huge financing needs” growing steadily, with a sound financial solvency, and potentially with a low risk of default. A posteriori, the WB could benefit of the successful market reforms in the SRV to publicize its policies in other parts of the globe.⁸¹

While this approach was deemed successful by the WB, it worked for the leaders of Communist Party of Vietnam (CPV) just as well. In fact, in taking strong stances against the policies suggested by the IMF (as the privatization of SOEs and state banks), the CPV leadership was successful in reining in the influence of the WB’s sister institution and maintaining domestic legitimacy.⁸² Maintaining close cooperation with the WB and other major bilateral donors was key to attracting foreign funds, such as FDI and ODA, and enhanced the SRV’s international integration. At the same time, the CPV leadership could ensure the international community’s positive recognition of the country’s development effort. In this endeavor, the adoption of key concepts such as “democracy”, “rights”, “freedom”, etc. in the country’s official policy documents somehow indicated the willingness of the CPV leadership to “blend” its country’s specific economic and social policies, at least if taken at face-value, with the dominant global neoliberal discourse.⁸³

Part of the success of this negotiation process might be attributable to the role of the GOJ, via JICA, and its experts. As Hatakeyama pointed out, Japanese officials opposed the first PRSP for its excessive stress on social aspects, such as investments in education and welfare, and the lack of initiative in the development of an infrastructural and industrial structure. Citing this reason, Japan refused to contribute to the First Poverty Reduction Strategy Credit in 2001. At the same time, Japanese officials “marketed” their country’s “Asian” approach (already expressed in the Ishikawa Project), strengthening their ties with the Vietnamese government and, in particular, with the then-Minister for Planning and Investment (MPI), Vo Hong Phuc. Winning over the Vietnamese government would have given the Japanese side an advantage on the WB, and other bilateral donors. In addition, the role of key individuals, such as Ishii Naoko,⁸⁴ with an extensive personal “network” within the IFIs was crucial.⁸⁵

⁸¹ Jean-Pierre Cling, Mireille Razafindrakoto and François Roubaud, “Is the World Bank compatible with the “Socialist-oriented market economy?” A political economy approach applied to the case of Vietnam,” *Revue de la regulation* 13 (2013): 9.

⁸² Martin Rama, “Making Difficult Choices: Vietnam in Transition,” *The Commission on Growth and Development Working Paper* no 40 (2008): 43.

⁸³ Cling, Razafindrakoto and Roubaud, “Is the World Bank compatible,” 10-12.

⁸⁴ Before joining the Ministry of Finance, International Development Bureau, Ishii had worked as a researcher at Harvard University, as an economist at the IMF and held various positions as bureau chief for the WB. See Bloomberg, “Executive Profile: Naoko

It took several months of negotiations before the Japanese approach was implemented in the PRSP. The Japanese side could leverage its position as “interpreter” of the needs of the Vietnamese government according to which “growth” was a top priority in the economic agenda. The Japanese delegation at the Donors’ Meetings on Vietnam stressed the importance of large-scale infrastructural projects, not as an alternative to, but as a priority over or, at least, a complement to programs in the social sector. Infrastructures are in fact key to guaranteeing sustained growth in a region like East Asia, whose economy is labor intensive and where there is the need for a network that might allow coordination between the individuals’ economic activities. This was the epitome of the “Japanese aid philosophy” at the foundations of an “Asian model of development” that the GOJ wanted recognized at a global level.⁸⁶

At the end of November 2002, the Japanese idea of “poverty reduction with and through economic growth” was finally accepted by the WB. Japanese officials had however to persuade other donors, and the Vietnamese government too. Negotiations went on until December 2002. This effort finally led to the revision of the first PRSP at the Donors’ meeting of that month. The very name of the policy document was changed. The presence of the terms “Comprehensive” and “Growth” in the title of its final version is suggestive. In addition, a new chapter was added stressing the fundamental character of investments in the development and modernization of the country’s infrastructures. In the end, “Japan’s development philosophy was able to garner acknowledgement at a multilateral level.”⁸⁷

Conclusion

In this paper, the role of Japanese knowledge-based aid to Vietnam since the early 1990s has been outlined. Specifically, the JICA-led legal assistance project (JICA-Morishima), a program of more comprehensive policy reform (Ishikawa) and the multilateral negotiations preceding the draft of the SRV’s CPRGS have been discussed to show the workings of hegemony according to the model theorized by Jessop and Sum.

Ishii” in *Bloomberg*, <https://www.bloomberg.com/research/stocks/private/person.asp?personId=214984918&privcapId=11313602&previousCapId=11313602&previousTitle=The%20Global%20Environment%20Facility>.

⁸⁵ See on this Kyoko Hatakeyama, “Japan’s Aid to Vietnam: Becoming an Intellectual Leader?,” *Japanese Studies* 28 no 3 (2008): 352; and Quang Nguyen and Howard Stewart, “The PRSP Process and Environment: The Case of Vietnam,” *Poverty and Environment Partnership: Vietnam Country Review* (2015): 23-24.

⁸⁶ Naoko Ishii and Mitsuru Kitano, “Let’s hear the voice of Japan in the PRSP,” *Kokusai kaihatsu journal*, 3 (2003): 38.

⁸⁷ Hatakeyama, “Japan’s Aid,” 353.

It has been assumed that during the first phase of the *doi moi* in the late 1980s and early 1990s, when the global discourse on “development” swiftly moved to stressing the concept of “governance,” Japan acted as a sub-hegemonic node. It did so by “localizing” a global code, and, at the same time, by helping to shape a new discourse – a Japanese or Asian model of development – based on Vietnam’s needs and demands. These can be summarized as follows: (a) reform the country’s governance through the adoption of specific policies and regulations to foster a positive business environment and develop a domestic market; and, consequently, (b) guarantee foreign actors against possible state’s interference in the market. One of the most compelling needs perceived by the SRV leadership in the aftermath of the launch of *doi moi* in the late 1980s was, in fact, to adjust its legal framework in response to the requests of international investors.

The adoption of the 2005 Civil Code can be considered a response to this very need. Moreover, the fact that it was drafted with the assistance of Japanese experts through a step-by-step approach is revealing of the Vietnamese leadership preference for a sub-current within the dominant discourse on development represented by Japan’s recipient-oriented approach, and, by and large, a desire to model its own development path on the Japanese example. Particularly so, in consideration of the fact that Japan’s assistance was prolonged over almost a decade and still ongoing due to the fact that Tokyo is one of the largest providers of FDI to the SRV and has seldom resorted to conditionalities to “discipline” the recipient despite corruption cases emerged in recent years.⁸⁸

The intensity of Japanese assistance to the SRV in the area of policy research since the Ishikawa project is particularly elucidatory. The initiative, despite its coordination with other multilateral actors, has in fact contributed to the formation at the SRV policy-making level of a clear inclination toward a model of poverty reduction (in line with the discourse at the global level) with and through growth promotion (in line with policy orientations at the local level).

This was possible, as shown above, because of the theoretical and discursive consistencies of the Japanese experts tasked with counselling and training Vietnamese ministers and government officials. In their writings, it has been shown, a critique of the inelasticity of, above all, the WB’s approach is apparent. By contrast, the Japanese approach, based on Japan’s own development experience, is defended as more flexible and suitable to a developing Asian country. Although it has not been discussed in detail here, the “Asianness” of the donor might also have been a decisive factor in the process of trust building between Japanese aid officials and experts and members of the SRV’s leadership. At any rate, as the CPRGS drafting process has demonstrated, Japanese intermediation has encouraged the donor community to reconsider certain aspects of the global discourse on poverty reduction and favored the inclusion in a WB-sponsored document of specific recipient’s targets, such as infrastructure expansion. Concomitantly, thanks to this agency,

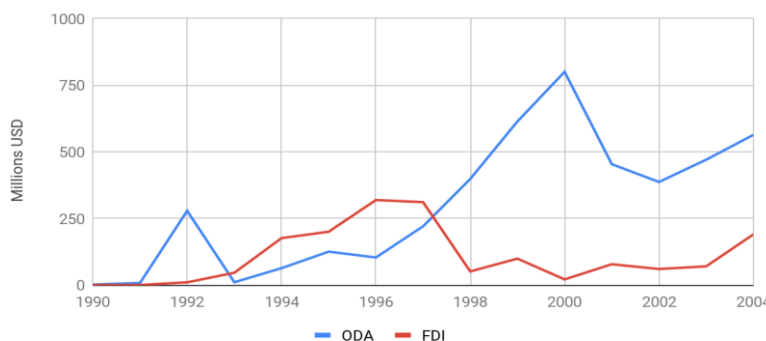
⁸⁸ See Kyodo, “Japan suspends aid to Vietnam over bribery case”, *Japan Times*, June 3, 2014 last accessed April 5, 2020: <https://www.japantimes.co.jp/news/2014/06/03/national/japan-suspends-aid-to-vietnam-over-bribery-case/#.XotuENMzbs0>.

the CPV has reaffirmed its self-determination in the face of donors and populace, securing the “ownership” of the plans for the SRV’s modernization.

In conclusion, it is possible to assume that the initiatives analyzed above have promoted Japan-SRV’s bilateral cooperation and, having embodied its main ideas and discourses, have promoted as well the latter’s engagement with the international society. In the transition from a Soviet-inspired approach to political economy to a neoliberal one, the SRV’s ruling elite has not emerged weakened; rather it has promptly reshaped the discourse and maintained its power. The emergence of concept such as the “socialist oriented market economy” (*Kinh te thị trường định hướng xã hội chủ nghĩa*) proves this.⁸⁹

In this view, laws are the instrument through which the state can coordinate and surveil the development of a market economy, and, at the same time, can attract financial resources from abroad. Along with strategies, master plans and socio-economic policies, they constitute the rational and modern structure of the national economy and are the source of “social discipline” and the defenders of the “interests of the Fatherland and the people.”⁹⁰ That is, in many cases, in the interests of the ruling elite.

Table 1: Japanese ODA and FDI to Vietnam (1990-2004)



Source: Table’s title. Organization of Economic Cooperation and Development (OECD), ‘Aid (ODA) disbursements to countries and regions [DAC2a]’ (2020), <https://stats.oecd.org/Index.aspx?DataSetCode=Table2A#> and JETRO, “Japan’s Foreign Direct Investments for single country and region” (in Japanese) (2019), <https://www.jetro.go.jp/world/japan/stats/fdi.html>.

⁸⁹ According to the SRV Prime Minister Nguyen Xuan Phuc, this is a society governed by socialist principles in which, however, “the institutions, tools and principles of operation of the market economy are created and used to liberalize the production force, mobilize every resource for national development, industrialization and modernization, raise the people’s living standards and ensure social security toward the goal of “a prosperous people and a strong, democratic, equitable and civilized country.” See Nguyen Xuan Phuc, “Completing socialist-oriented market economy institutions in Vietnam: Some issues to be further clarified,” *Vietnam Law & Legal Forum*, March 20, 2015.

⁹⁰ Nguyen Phu Trong. 2010. “A platform for nation building,” *Vietnam Law & Legal Forum*. September 28, 2010, available at: <http://vietnamlawmagazine.vn/a-platform-for-nation-building-3201.html>.